

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.639 OF 2005
IN
SECOND APPEAL NO.369 OF 2005

Office Notes, Office Memoranda
of Coram, appearances, Court's
Orders or directions and
Registrar's Orders

Court's or Judge's Orders

Mr.D.S.Sawant for applicant

Ms Kinjal Haria i/b J.K.Kini for
respondent no.3

Mr.Milind Deshmukh for respondent Nos.1A
to 1D and 2

CORAM : P.V.KAKADE, J.

DATE : 16TH SEPTEMBER, 2005

P.C.:

1. Heard both sides. This is an application for Stay of the Order passed by the lower court dated 27.9.2002 dismissing the appeal of the present appellant. Admittedly the decree passed by the lower appellate court is decree for partition. In my considered view there

would not be any prejudice either of the parties if the process of partitions is effected upto the determining share of the concerned shearer without giving possession of the said shares to either of the parties pending of the appeal.

2. Hence the application is partly allowed. It is hereby directed that the process of partition shall be continued to the extent of determining the shares of the parties without handing over physical possession of the suit property to the respective sharers pending the appeal. With this direction the application stands disposed of with no order as to costs.